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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,918	01/31/2001	Hideyuki Amaku	826.1671/JDH	9990
21171 7590 04/18/2007 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER NGUYEN, MERILYN P	
			ART UNIT	PAPER NUMBER
			2163	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/18/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/772,918

Applicant(s)

AMAKU ET AL.

Examiner

Merilyn P. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/21/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,9,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 3 is/are allowed.
- 6) ☒ Claim(s) 1,8,9,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed action.

DETAILED ACTION

1. This application claims foreign priority Application No. 2000-181687 filed on June 16, 2000.
2. In response to the communication dated 02/21/2007, claims 1, 2, 3, 8, 9, 12 and 13 are active in this application.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/21/2007 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 12 stands rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As set forth in MPEP 21 06(II)A:

Identify and understand Any Practical Application Asserted for the Invention The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47USPQ2d at 1601-02. The

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purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96),¹ In re Ziegler, 992, F.2d 1 197, 1200-03, 26 USPQZd 1600, 1603-06 (Fed. Cir. 199334. Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful,

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See Arrhythmia, 958 F.2d at 1057, 22 USPQZd at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. For example, a claim directed to a word processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some "real world" value. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application.

The claimed invention is subject to the test of State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Specifically State Street sets forth that the claimed invention must produce a "useful, concrete and tangible result". The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility states in section IV C. 2 b. (2) (on page 21 in the PDF format):

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The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a §101 judicial exception, in that the process claim must set forth a practical application of that §101 judicial exception to produce a real-world result.

Benson, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had "no substantial practical application").

In the present case, claimed invention (Claim 12) recites a propagating signal.

Propagating signal is a carrier in a form of energy which is not a process, machine, manufacture, nor composition of matter, thus is a non statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 8, 9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Enko (US 6,078,944).

Regarding claims 1, 8, 9, 12, and 13, Nakagaki discloses a recording system, a recording method, a computer-readable storage medium, and a propagating signal, comprising:

- a generation device generating process information for indicating a content of a process in a specific system (See Fig. 1 and col. 4, lines 35-38 and col. 5, lines 23-65); and
- a recording device for recording the process information (run queue) of the specific system generated by the generating device, the process information of the specific system recorded in a shared storage medium (Shared memory 140, Fig. 1) that is shared by a plurality of systems (systems corresponding to systems of processors 101-104) including the specific system and is commonly searched by the plurality of systems (See col. 4, lines 39-40 and col. 7, lines 17-21 and 52-67) and that collectively stores a plurality of pieces of process information of the plurality of systems (Run queue 111, 112, 113, 114, Fig. 1), in a format such that a process information of the entire system comprising the plurality of systems is collectively managed by the shared storage medium (See col. 5, lines 35-50) and a process history of the plurality of systems can be tracked without requiring access to the specific system (See col. 5, lines 1-65). Enko teaches a plurality of systems (systems of processors 101-104) comprising processors 101-104 and an external storage (Shared memory 140, fig. 1). Enko inherently teaches processor comprising a memory¹².

¹ Please note that processor comprising a memory is a inherent teaching. Please see Hoshina et al. (U.S Patent No. 5,828,821), particularly Fig. 3 describes processor 1a has memory 3a.

² The claim recites "each system of a plurality of systems comprising a processor, a memory, and an external storage". The Examiner wonders whether "a plurality of systems" is different that "a plurality of systems"

Response to Remarks/Arguments

6. Applicant's remarks/arguments filed on 02/21/2007 about the claim rejection of the last Office Action have been fully considered, but they are not persuasive.

Response to Applicant's Remark on the 101 Rejection:

Applicant argues that claim 12 is statutory per se as signals are an article of manufacture. The Examiner respectfully disagrees. As addressed above, Propagating signal is a carrier in a form of energy which is not a process, machine, manufacture, nor composition of matter, thus is a non statutory subject matter.

Allowable subject matter

7. Claim 2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The reasons for allowance are stated in the previous Office Action mailed January 30, 2004.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shibata U.S Patent No. 5,987,571 discloses cache coherency control method and multi-processor system using the same.

Hirayama U.S Patent No. 6,219,672 discloses distributed shared memory system and method of controlling distributed shared memory.

introduced earlier in the claim. Nevertheless, the Examiner treats it as "the plurality of systems" or "said plurality of

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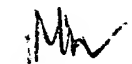
Guezou U.S Patent No. 6,131,114 discloses system for interchanging data between data processor units having processors interconnected by a common bus.

Kaxiras U.S Patent No. 6,889,293 discloses directory-based prediction methods and apparatus for shared-memory multiprocessor systems.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Merilyn P Nguyen whose telephone number is 571-272-4026.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



MN

April 13, 2007



DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

systems". Please clarify.